



Navigating Transfer Pricing under Kuwait's DMTT

**Challenges and Risks for
Multinational Enterprises**

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Introduction

The introduction of Kuwait's Domestic Minimum Top-Up Tax ("DMTT"), effective 1 January 2025, represents a pivotal transformation in the country's corporate tax environment. The DMTT imposes a 15% effective tax rate on in-scope multinational enterprise (MNE) groups with consolidated revenues of at least EUR 750 million in at least two of the preceding four years. For the first time, Transfer Pricing (TP) principles are formally embedded within the domestic tax framework, aligning Kuwait with the OECD's Global Minimum Tax (Pillar Two) initiative.

Historically, transfer pricing in Kuwait operated within a less structured environment, with limited formal documentation requirements. The Kuwait DMTT Law fundamentally changes this dynamic, where Transfer pricing is no longer a just a compliance consideration — it now directly influences taxable income, effective tax rate (ETR) calculations, and potential top-up tax exposure at a global level.

For multinational enterprise (MNE) groups operating in Kuwait, the first year of implementation will serve as a foundational phase — requiring the establishment of structured TP policies, documentation frameworks, and governance mechanisms that may not have previously existed in formalized form.

As Kuwait transitions into a rule-based and transparency-driven tax landscape, a proactive and structured approach to transfer pricing will be critical for managing risk and ensuring sustainable compliance.

Overview of Kuwait Transfer Pricing Framework:

Kuwait's TP provisions under the DMTT Executive Regulations are broadly aligned with the OECD Transfer Pricing Guidelines and require adherence to the arm's-length principle. The key requirements include:

- Application of TP principles: All related party transactions / arrangements (cross border as well as domestic) between related parties must comply with the arm's length principle.
- Disclosure under DMTT return: The TP Disclosure Form is required to be certified by Ministry of Finance (MoF) audit firm and submitted as part of the DMTT Tax return. This form serves as the primary risk assessment tool for the Kuwait Tax Authority (KTA) and will likely shape audit focus areas.
- Transfer Pricing Documentation: Preparation and maintenance of Master File and Local File - to ensure consistency between operational conduct, financial results, and TP outcomes to support audit readiness and ongoing compliance.
- Audit readiness: Documentation must be submitted within 30 days upon request by KTA. This underscores the importance of contemporaneous documentation to avoid potential adjustments.
- Readiness to respond to KTA reviews and audits, noting the short audit response timelines with information/documents to be submitted within 30 days to the KTA upon request.
- Penalty and financial implications: Non-compliance, inaccurate disclosures, or pricing misalignment may result in adjustments and penalties, with potential implications for tax calculations

While the Kuwait TP framework is broadly aligned with OECD TP Guidelines, local application requires an emphasis on substance, governance, and documentation to align with Kuwait DMTT requirements.

Key TP Challenges and Practical Considerations for MNEs during the Initial Year

The first year of TP implementation in Kuwait will be a foundational phase that requires addressing unique challenges in terms of technical and operational considerations, while building awareness, processes, and internal coordination across business, finance, and tax functions.

The implementation of transfer pricing regime would involve the following initial challenges and consideration:

01

Limited Local Precedent and Interpretative Guidance

- Challenge: Kuwait's TP framework is newly introduced, and administrative guidance is expected to evolve.
- Practical Response: Adopt defensible, OECD-aligned TP positions supported by robust functional analysis and benchmarking. Clearly document assumptions and management decisions contemporaneously.

02

Documentation Requirements and Pillar Two Consistency

- Challenge: First-time preparation of TP Documentation (Master File and Local Files) and ensuring alignment with statutory financial statements and Pillar Two calculations.
- Practical Response: Map TP positions to statutory accounts and ETR calculations; reconcile differences and document reasons for any divergence.

03

Strategic Alignment with Global Transfer Pricing Policies

- Challenge: Inconsistencies between global TP policies and Kuwait's operational realities.
- Practical Response: Reassess methodologies and intercompany agreements; adopt localized supporting analysis while preserving group consistency.

04

Integrating DMTT with Broader Tax Strategy

- Challenge: TP adjustments may not be mirrored elsewhere, risking double taxation or unintended top-up outcomes.
- Practical Response: Coordinate cross-border tax teams to aim for consistent treatment and identify potential mitigations early.

Additional Practical Challenges during first Year of Compliance

05

Identification and Reporting of Related Party Transactions

- Challenge: Tax teams will be required to invest significant efforts in coordinating with business and finance teams to collate data and identify Related Party Transactions (RPTs)
- Practical Response: Implement systematic processes for data collection and RPT identification using standardized templates and clear ownership for data inputs while coordinating with business and finance teams

06

Functional and Substance Alignments

- Challenge: Formal TP rules necessitates the alignment between the actual activities performed by group entities and their functional characterizations
- Practical Response: Perform a functional and economic substance review to confirm where decision-making, risk assumption, and value creation occur. Update entity characterizations and document the commercial rationale.

07

Documentation and Governance Mechanism

- Challenge: Considering Kuwait was historically viewed as a jurisdiction where transfer pricing carried limited risk, it will be critical to focus on preparation of TP policies and documentation.
- Practical Response: It will be critical to establish or upgrade TP governance including upgrade to the internal reporting and data structure to enable stronger internal governance and greater coordination between tax, finance, and operational teams and periodic review for TP policies and intercompany agreements.

08

Comparability and Benchmarking

- Challenge: Tax authorities often focus on the robustness of comparability adjustments and the commercial rationale for not selecting local or regional comparable for benchmarking purposes
- Practical Response: Assess the availability of local comparable or internal data. Use regional or global comparable where local data is scarce, and thoroughly document comparability adjustments and the commercial rationale for chosen benchmarks.

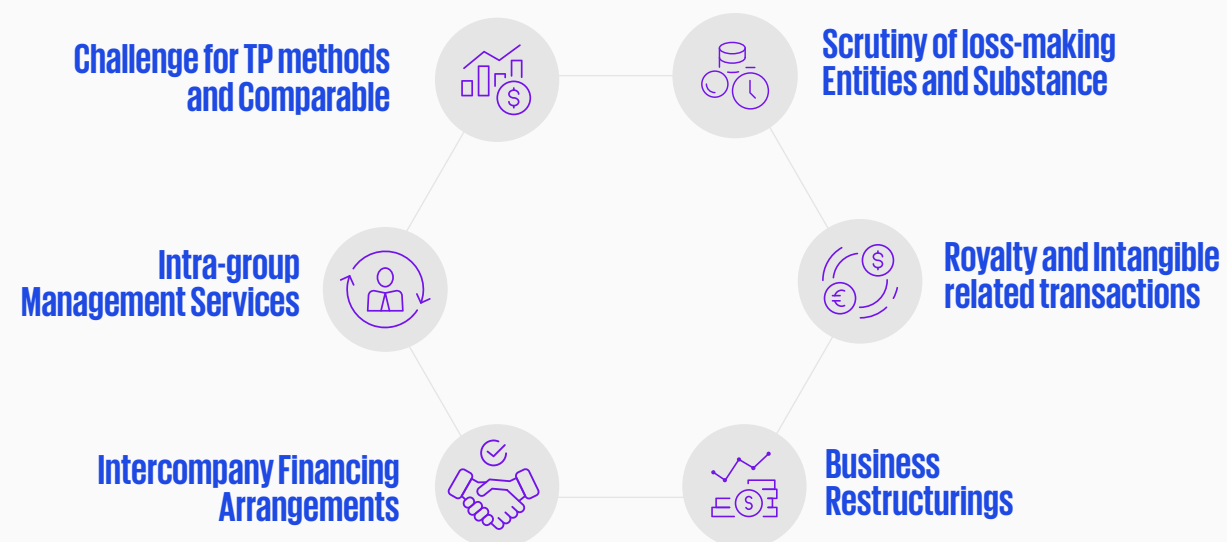
Kuwait Tax Landscape and Insights from Regional Transfer Pricing Trends

Historically, the KTA challenged intra-group charges (relating supplies, management fees, service charges, royalty, interest, and shared service allocations) and made adjustment / disallowances based on administrative practice rather than structured benchmarking

Also, while Kuwait's Tax Treaties generally contain provisions relating to Permanent Establishments (PEs), however practical application of profit attribution principles and structured arm's-length analysis was limited to audit practice. The documentation expectations were not standardized and were typically determined on a case-by-case basis.

With the introduction of DMTT, it is expected that KTA may progressively shift audit practices toward a more structured analysis and more documentation-driven audits. While Kuwait formal TP audit practice is still developing, the common regional trends observed in other jurisdictions have increasingly focused on:

Key Transfer Pricing Audit Risk Areas



Practical Steps for MNEs to manage Transfer Pricing Risks

The first year of DMTT implementation represents a turning point for group operating in Kuwait. The tax landscape is shifting from a historically compliance-driven environment toward a more structured and enforcement-oriented framework where transfer pricing plays a central role.

In the evolving environment, MNE and Kuwaiti owned business groups that proactively strengthen governance, documentation, and align operational conduct with transfer pricing outcomes will be best positioned to manage tax risk, support sustainable growth, and navigate the Kuwait's TP landscape.

Importantly, the DMTT Executive Regulations currently do not prescribe any minimum threshold for maintaining transfer pricing documentation. As a result, all taxable entities — regardless of transaction value — are expected to comply fully with documentation and disclosure obligations. Further guidance from the Ministry of Finance (MoF) is anticipated to clarify thresholds, content, and format requirements for the Transfer Pricing Disclosure Form and documentation. Until such clarification is issued, businesses should adopt a prudent and structured compliance approach.

To navigate this evolving landscape, MNEs should adopt a proactive and structured approach:

Conduct an early impact assessment

to identify which transactions fall within the scope of Kuwait's Transfer Pricing regulations and where potential risks may arise.

Aligning substance and functions with entity characterization

with TP policy to support that actual conduct, decision-making and risk assumption are consistent with documented policies.

Review and update intercompany agreements

ensuring that pricing terms, responsibilities, and commercial rationales are clearly documented and supportable.

Establish a structured governance framework

with clear roles and responsibilities for transfer pricing compliance, ensuring consistency across jurisdictions.

Prepare robust and contemporaneous documentation

that reflects the group's operating model and economic analysis, aligned with OECD methodologies and local regulatory expectations.

Have consistency

across TP documentation, tax filings, and financial reporting to avoid potential exposure and audit adjustments.

Proactively engage with tax authorities

where appropriate, to clarify expectations and resolve ambiguities before formal assessments or audits occur.

Navigating the Road ahead for MNEs

The implementation of Kuwait's DMTT marks a structural transformation in the country's tax environment. Transfer pricing now sits at the center of this framework, influencing not only local taxable income but also effective tax rate outcomes for multinational groups.

More importantly, the emergence of formal transfer pricing rules in Kuwait signals a shift not only in regulation but in mindset — requiring organizations to treat transfer pricing as an integral part of business operations rather than a year-end compliance exercise.

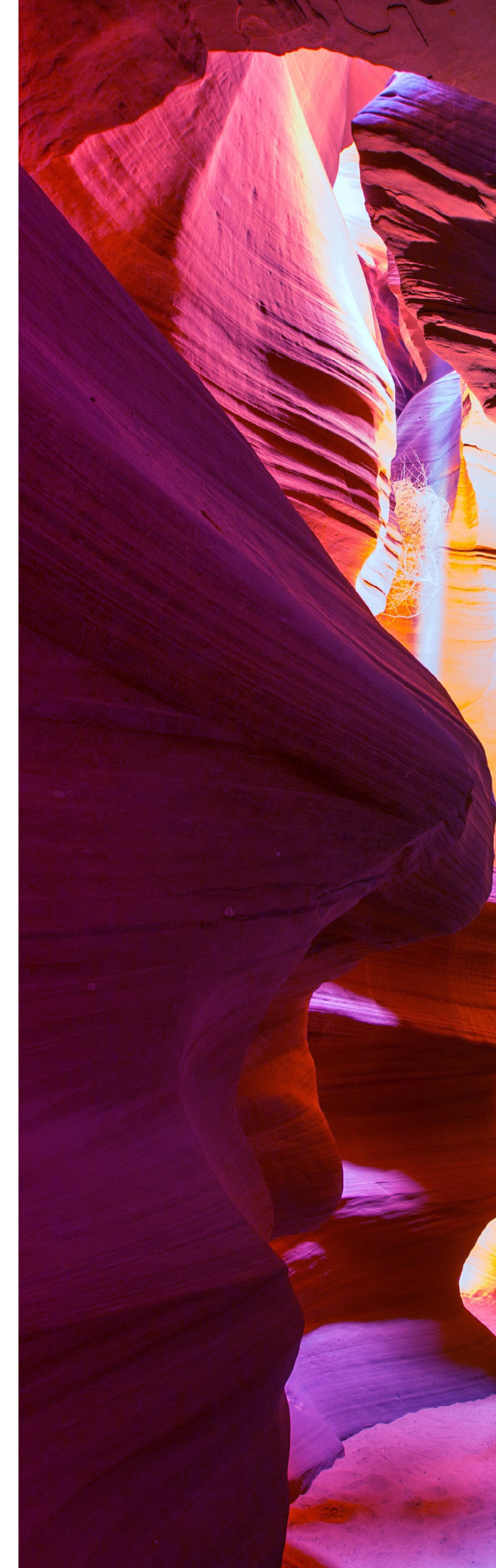
While the initial years of implementation will likely involve interpretative uncertainty and evolving audit practices, the MNEs that take a proactive, structured, and globally aligned approach — supported by strong documentation and internal coordination — will be best positioned to manage risk and maintain tax certainty in Kuwait's evolving transfer pricing environment.

How We can Help?

KPMG has a dedicated team of Tax and TP professionals in the Kuwait with extensive experience of assisting various multinational and Kuwait based business groups across various industry sectors.

The team's deep knowledge, combined with familiarity with local and regional legal frameworks, allows us to help you navigate the requirements set out in the DMTT and TP provisions as outlined in the Kuwait DMTT Law and the OECD TP Guidelines.

We are happy to discuss your specific requirements and determine the way forward; please reach out to our Kuwait team members below.



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